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ITEMS FOR MR. CARY FOR THE DCI 9:00 MEETING ON

23 July 1975

Date

FROM: WPB

Name

SUBJECT:

1. On Monday the House passed and sent to the Senate H.R. 3650, a bill on the reemploying of annuitants. The purpose of the bill is to require the employing agency to pay the full salary of the person hired and not merely the difference between the annuity and the salary of the position. This measure will require agencies who rehire federal annuitants to deposit the savings realized to their budget from this practice into the Treasury of the United States to the credit of the Civil Service fund under such procedures as the Comptroller General prescribes.

2. This bill is an Administration bill based on a Civil Service draft in response to a GAO recommendation concerning the rehiring of annuitants. Its passage has been supported by the Administration.

3. We asked DDA for advice on whether the Agency had any special problems with the bill. At that time (1 May) they advised us there were none beyond the increased cost to the Agency in reemploying annuitants. We are sending a copy to DDA for their information and to request any further comments they might want to make at this time.

ILLEGIB

Send also



notified

morning meet

7/24

DD/A & evening

July 21, 1975

CONGRESSIONAL RECORD—HOUSE

H 7101

"A bill amend title 10 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of military or civilian medical personnel of the Armed Forces, and for other purposes."

A motion to reconsider was laid on the table.

REEMPLOYED ANNUITANTS

The Clerk called the bill (H.R. 3650) to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 3650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8344(a) of title 5, United States Code, is amended to read as follows:

"(a) If an annuitant receiving annuity from the Fund, except—

"(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

"(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

"(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

"(4) a Member receiving annuity from the Fund;

becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States shall prescribe. If the annuitant serves on a full time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not excluding him from coverage under section 8331(1) (1) or (1) of this title—

"(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

"(B) his lump sum may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had

otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter."

(b) Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsections (b) and (c) thereof as subsections (d) and (e), respectively; and

(2) by inserting immediately after subsection (a) thereof the following new subsections:

"(b) If an annuitant whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges of misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

"(c) If an annuitant is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment."

(c) Section 8344(d) of title 5, United States Code, as redesignated by this Act, is amended by striking out the last sentence.

(d) Section 8339(f)(2)(C) of title 5, United States Code, is amended by striking out "8344(b)(1)" and inserting in lieu thereof "8344(d)(1)".

Sec. 2. Section 8332(j) of title 5, United States Code, is amended—

(1) by striking out in the first sentence "except" and inserting in lieu thereof "(except"; and

(2) by inserting in the first sentence immediately after "civilian position," the following: "or military service performed by an individual who, for purposes of accepting an appointment by the President to a position requiring Senate confirmation, obtained a discharge or separation prior to becoming entitled to retired pay on account of such military service)".

Sec. 3. (a) Except as provided under subsection (b) of this section, the amendments made by this Act shall become effective on the date of enactment of this Act and shall apply to annuitants serving in appointive or elective positions on and after the date of enactment of this Act.

(b) The amendment made by subsection (e) of the first section of this Act shall become effective on the date of enactment of this Act but shall not apply to any annuitant reemployed prior to the date of enactment of this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 8344(a) of title 5, United States Code, is amended to read as follows:

"(a) If an annuitant receiving annuity from the Fund, except—

"(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

"(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

"(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

"(4) a Member receiving annuity from the Fund;

becomes employed in an appointive or elective position, his services on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service in employment not excluding him from coverage under section 8331(1) (1) or (1) of this title—

"(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

"(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter."

(b) Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsections (b) and (c) thereof as subsections (d) and (e), respectively; and

(2) by inserting immediately after subsection (a) thereof the following new subsections:

"(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

"(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment."

(c) Section 8344(d) of title 5, United

States Code, as redesignated by this Act, is amended by striking out the last sentence.

(d) Section 8339(f)(2)(C) of title 5, United States Code, is amended by striking out "8344(b)(1)" and inserting in lieu thereof "8344(d)(1)".

SEC. 2. (a) Except as provided under subsection (b) of this section, the amendments made by this Act shall become effective on the date of the enactment of this Act and shall apply to annuitants serving in appointive or elective positions on and after the date of the enactment of this Act.

(b) The amendment made by subsection (c) of the first section of this Act shall become effective on the date of the enactment of this Act but shall not apply to any annuitant reemployed before the date of the enactment of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WHEAT MARKETING YEAR CHANGE

The Clerk called the Senate bill (S. 435) to amend section 301(b)(7) of the Agricultural Adjustment Act of 1938, as amended, to change the marketing year for wheat from July 1-June 30, to June 1-May 31.

There being no objection, the Clerk read the Senate bill as follows:

S. 435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301(b)(7) of the Agricultural Adjustment Act of 1938, as amended, is amended by striking out "Wheat, July 1-June 30" and inserting in lieu thereof "Wheat, June 1-May 31".

SEC. 2. The amendment made by the first section of this Act shall become effective June 1, 1975.

Passed the Senate April 24 (legislative day, April 21), 1975.

Mr. WAMPLER. Mr. Speaker, S. 435, a bill to amend section 301(b)(7) of the Agricultural Adjustment Act of 1938, as amended, to change the marketing year for wheat from July 1-June 30 to June 1-May 31, is a noncontroversial bill which is supported by the Department of Agriculture, the American Farm Bureau Federation, and the National Association of Wheat Growers.

The bill passed the Senate April 24, 1975, and was reported by the House Agriculture Committee in exactly the same form as it passed the Senate.

The reasons for the enactment of this legislation are as noted in the letter of May 19, 1975, from the Department of Agriculture which states in pertinent part as follows:

The Department supports the passage of the bill.

The proposed change has a great deal of merit. Technology associated with wheat production has greatly advanced the time of wheat harvest with as much as 40 percent of the winter wheat crop harvested in some years prior to July 1. In most years, a significant amount of new crop wheat is processed or exported prior to July 1, and this creates serious unknowns as to the utilization of the grain for individual crop years. The shift of the marketing year to begin June 1 would minimize the utilization un-

knowns associated with individual crop years. The harvest of durum wheat and other spring wheat does not present similar problems because of the timing of spring wheat harvest.

The designation of June 1 as the beginning of the marketing year for wheat would require the conduct of a wheat stocks survey as of June 1. This survey is now conducted as of July 1 as an integral part of the stocks survey for the other grain and oilseed commodities for which stocks data are provided. As soon as feasible after enactment of the bill, it is proposed to shift the date of the stocks survey for all commodities concerned to June 1. A shift to June 1 should present no additional problems in the collection of farm and off-farm stocks, as the same basic survey procedures followed on June 1 would also be used for a June 1 survey. The shift of all commodities would not involve additional costs to the Department.

It will not be practical at this date to shift all commodities to the June 1 date in 1975. If the legislation is passed, it is proposed to maintain the July 1 stocks survey date for wheat and all other commodities in 1975 and to shift all commodities to a June 1 date in 1976 at no additional cost.

There was some concern expressed in the committee about whether the change in marketing year would have any appreciable effect on the deficiency payments made under the wheat program. The House report accompanying this bill addresses this issue and how it was resolved:

In its consideration of the bill a question was raised concerning the effect that the change in the marketing year would have on the effect that the change in the marketing year would have on the rate of payments which may be received by wheat producers as deficiency payments under the wheat program. A compilation was obtained of the average prices received by farmers for wheat for the 20-year period, 1955 through 1974. During this period the November price was higher than the June price in 16 years and the June price was higher than the November price in only 4 of the years involved. Thus, if the market price for wheat should fall below the target price of \$2.05 per bushel (as adjusted for 1976 and 1977), it appears unlikely that the deficiency payments would be reduced as a result of the change in the marketing year, as provided for in S. 435.

The committee unanimously reported this bill recommending its passage. I urge you to give it prompt and favorable action at this time.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR THE REAPPOINTMENT OF DR. JOHN NICHOLAS BROWN AS CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. NEDZI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 42) to provide for the reappointment of Dr. John Nicholas Brown as citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. Res. 42

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of Doctor John Nicholas Brown, of Rhode Island, on June 13, 1975, be filled by the reappointment of the present incumbent for the statutory term of six years.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill joint resolution (H.J. Res. 353) was laid on the table.

PROVIDING FOR THE REAPPOINTMENT OF THOMAS J. WATSON, JR. AS CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. NEDZI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 41) to provide for the reappointment of Thomas J. Watson, Jr., citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. Res. 41

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of Thomas J. Watson, Jr., of Connecticut, on June 13, 1975, be filled by the reappointment of the present incumbent for the statutory term of six years.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution (H.J. 354) was laid on the table.

APPOINTMENT OF CONFEREES H.R. 6799, TO APPROVE CERTAIN OF THE PROPOSED AMENDMENTS TO THE FEDERAL RULES OF CRIMINAL PROCEDURE, TO AMEND CERTAIN OF THEM, AND TO MAKE CERTAIN ADDITIONAL AMENDMENTS TO THOSE RULES

Mr. HUNGATE. Mr. Speaker, I move to take from the Speaker's desk the bill (H.R. 6799) to approve certain of the proposed amendments to the Federal Rules of Criminal Procedure, to amend certain of them, and to make certain additional amendments to those rules which disagree with the Senate amendments.

Key General file

ITEMS FOR MR. CARY FOR THE DCI 9:00 MEETING ON: 23 July 1975
Date

FROM: WPB
Name

SUBJECT:

1. On Monday the House passed and sent to the Senate H.R. 3650, a bill on the reemploying of annuitants. The purpose of the bill is to require the employing agency to pay the full salary of the person hired and not merely the difference between the annuity and the salary of the position. This measure will require agencies who rehire federal annuitants to deposit the savings realized to their budget from this practice into the Treasury of the United States to the credit of the Civil Service fund under such procedures as the Comptroller General prescribes.

2. This bill is an Administration bill based on a Civil Service draft in response to a GAO recommendation concerning the rehiring of annuitants. Its passage has been supported by the Administration.

3. We asked DDA for advice on whether the Agency had any special problems with the bill. At that time (1 May) they advised us there were none beyond the increased cost to the Agency in reemploying annuitants. We are sending a copy to DDA for their information and to request any further comments they might want to make at this time.

UNCLASSIFIED

CONFIDENTIAL

SECRET

OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1	OP		
2	OF		
3	Compt		
4	DDA		
5	Send a copy to [redacted] 5667		
6			

<input type="checkbox"/> ACTION	<input type="checkbox"/> DIRECT REPLY	<input type="checkbox"/> PREPARE REPLY
<input type="checkbox"/> APPROVAL	<input type="checkbox"/> DISPATCH	<input type="checkbox"/> RECOMMENDATION
<input type="checkbox"/> COMMENT	<input type="checkbox"/> FILE	<input type="checkbox"/> RETURN
<input type="checkbox"/> CONCURRENCE	<input type="checkbox"/> INFORMATION	<input type="checkbox"/> SIGNATURE

Remarks:

The House passed and sent to the Senate H.R. 3650, a bill which would increase the cost of rehiring annuitants. This is an Administration bill and the Administration has supported its favorable consideration.

[redacted]
Office of Legislative Counsel

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.

DATE

A bill amend title 10 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of military or civilian medical personnel of the Armed Forces, and for other purposes."

A motion to reconsider was laid on the table.

REEMPLOYED ANNUITANTS

The Clerk called the bill (H.R. 3650) to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 3650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8344(a) of title 5, United States Code, is amended to read as follows:

"(a) If an annuitant receiving annuity from the Fund, except—

"(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

"(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

"(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

"(4) a Member receiving annuity from the Fund;

becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States shall prescribe. If the annuitant serves on a full time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not excluding him from coverage under section 8331(1) (i) or (11) of this title—

"(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

"(B) his lump sum may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had

otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter."

(b) Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsections (b) and (c) thereof as subsections (d) and (e), respectively; and

(2) by inserting immediately after subsection (a) thereof the following new subsections:

"(b) If an annuitant whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges of misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

"(c) If an annuitant is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment."

(c) Section 8344(d) of title 5, United States Code, as redesignated by this Act, is amended by striking out the last sentence.

(d) Section 8339(f)(2)(C) of title 5, United States Code, is amended by striking out "8344(b)(1)" and inserting in lieu thereof "8344(d)(1)".

Sec. 2. Section 8332(j) of title 5, United States Code, is amended—

(1) by striking out in the first sentence "except" and inserting in lieu thereof "(except"; and

(2) by inserting in the first sentence immediately after "civilian position," the following: "or military service performed by an individual who, for purposes of accepting an appointment by the President to a position requiring Senate confirmation, obtained a discharge or separation prior to becoming entitled to retired pay on account of such military service)".

Sec. 3. (a) Except as provided under subsection (b) of this section, the amendments made by this Act shall become effective on the date of enactment of this Act and shall apply to annuitants serving in appointive or elective positions on and after the date of enactment of this Act.

(b) The amendment made by subsection (e) of the first section of this Act shall become effective on the date of enactment of this Act but shall not apply to any annuitant reemployed prior to the date of enactment of this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 8344(a) of title 5, United States Code, is amended to read as follows:

"(a) If an annuitant receiving annuity from the Fund, except—

"(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

"(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation of an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

"(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

"(4) a Member receiving annuity from the Fund;

becomes employed in an appointive or elective position, his services on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service in employment not excluding him from coverage under section 8331(1) (i) or (11) of this title—

"(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

"(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter."

(b) Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsections (b) and (c) thereof as subsections (d) and (e), respectively; and

(2) by inserting immediately after subsection (a) thereof the following new subsections:

"(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

"(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment."

(c) Section 8344(d) of title 5, United

States Code, as redesignated by this Act, is amended by striking out the last sentence.

(d) Section 8339(f)(2)(C) of title 5, United States Code, is amended by striking out "8344(b)(1)" and inserting in lieu thereof "8344(d)(1)".

SEC. 2. (a) Except as provided under subsection (b) of this section, the amendments made by this Act shall become effective on the date of the enactment of this Act and shall apply to annuitants serving in appointive or elective positions on and after the date of the enactment of this Act.

(b) The amendment made by subsection (c) of the first section of this Act shall become effective on the date of the enactment of this Act but shall not apply to any annuitant reemployed before the date of the enactment of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WHEAT MARKETING YEAR CHANGE

The Clerk called the Senate bill (S. 435) to amend section 301(b)(7) of the Agricultural Adjustment Act of 1938, as amended, to change the marketing year for wheat from July 1-June 30, to June 1-May 31.

There being no objection, the Clerk read the Senate bill as follows:

S. 435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301(b)(7) of the Agricultural Adjustment Act of 1938, as amended, is amended by striking out "Wheat, July 1-June 30" and inserting in lieu thereof "Wheat, June 1-May 31".

SEC. 2. The amendment made by the first section of this Act shall become effective June 1, 1975.

Passed the Senate April 24 (legislative day, April 21), 1975.

Mr. WAMPLER. Mr. Speaker, S. 435, a bill to amend section 301(b)(7) of the Agricultural Adjustment Act of 1938, as amended, to change the marketing year for wheat from July 1-June 30 to June 1-May 31, is a noncontroversial bill which is supported by the Department of Agriculture, the American Farm Bureau Federation, and the National Association of Wheat Growers.

The bill passed the Senate April 24, 1975, and was reported by the House Agriculture Committee in exactly the same form as it passed the Senate.

The reasons for the enactment of this legislation are as noted in the letter of May 19, 1975, from the Department of Agriculture which states in pertinent part as follows:

The Department supports the passage of the bill.

The proposed change has a great deal of merit. Technology associated with wheat production has greatly advanced the time of wheat harvest with as much as 40 percent of the winter wheat crop harvested in some years prior to July 1. In most years, a significant amount of new crop wheat is processed or exported prior to July 1, and this creates serious unknowns as to the utilization of the grain for individual crop years. The shift of the marketing year to begin June 1 would minimize the utilization un-

knowns associated with individual crop years. The harvest of durum wheat and other spring wheat does not present similar problems because of the timing of spring wheat harvest.

The designation of June 1 as the beginning of the marketing year for wheat would require the conduct of a wheat stocks survey as of June 1. This survey is now conducted as of July 1 as an integral part of the stocks survey for the other grain and oilseed commodities for which stocks data are provided. As soon as feasible after enactment of the bill, it is proposed to shift the date of the stocks survey for all commodities concerned to June 1. A shift to June 1 should present no additional problems in the collection of farm and off-farm stocks, as the same basic survey procedures followed on June 1 would also be used for a June 1 survey. The shift of all commodities would not involve additional costs to the Department.

It will not be practical at this date to shift all commodities to the June 1 date in 1975. If the legislation is passed, it is proposed to maintain the July 1 stocks survey date for wheat and all other commodities in 1975 and to shift all commodities to a June 1 date in 1976 at no additional cost.

There was some concern expressed in the committee about whether the change in marketing year would have any appreciable effect on the deficiency payments made under the wheat program. The House report accompanying this bill addresses this issue and how it was resolved:

In its consideration of the bill a question was raised concerning the effect that the change in the marketing year would have on the effect that the change in the marketing year would have on the rate of payments which may be received by wheat producers as deficiency payments under the wheat program. A compilation was obtained of the average prices received by farmers for wheat for the 20-year period, 1955 through 1974. During this period the November price was higher than the June price in 16 years and the June price was higher than the November price in only 4 of the years involved. Thus, if the market price for wheat should fall below the target price of \$2.05 per bushel (as adjusted for 1976 and 1977), it appears unlikely that the deficiency payments would be reduced as a result of the change in the marketing year, as provided for in S. 435.

The committee unanimously reported this bill recommending its passage. I urge you to give it prompt and favorable action at this time.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR THE REAPPOINTMENT OF DR. JOHN NICHOLAS BROWN AS CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. NEDZI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 42) to provide for the reappointment of Dr. John Nicholas Brown as citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 42

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of Doctor John Nicholas Brown, of Rhode Island, on June 13, 1975, be filled by the reappointment of the present incumbent for the statutory term of six years.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill joint resolution (H.J. Res. 353) was laid on the table.

PROVIDING FOR THE REAPPOINTMENT OF THOMAS J. WATSON, JR., AS CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. NEDZI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 41) to provide for the reappointment of Thomas J. Watson, Jr., as citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 41

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of Thomas J. Watson, Junior, of Connecticut, on June 17, 1975, be filled by the reappointment of the present incumbent for the statutory term of six years.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution (H.J. 354) was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 6799, TO APPROVE CERTAIN OF THE PROPOSED AMENDMENTS TO THE FEDERAL RULES OF CRIMINAL PROCEDURE, TO AMEND CERTAIN OF THEM, AND TO MAKE CERTAIN ADDITIONAL AMENDMENTS TO THOSE RULES

Mr. HUNGATE. Mr. Speaker, I move to take from the Speaker's desk the bill (H.R. 6799) to approve certain of the proposed amendments to the Federal Rules of Criminal Procedure, to amend certain of them, and to make certain additional amendments to those rules, disagree with the Senate amendments,

REEMPLOYED ANNUITANT PROVISIONS

HEARING
BEFORE THE
SUBCOMMITTEE ON
RETIREMENT AND EMPLOYEE BENEFITS
OF THE
COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

H.R. 3650 *OP*

A BILL TO CLARIFY THE APPLICATION OF SECTION 8344
OF TITLE 5, UNITED STATES CODE, RELATING TO CIVIL
SERVICE ANNUITIES AND PAY UPON REEMPLOYMENT, AND
FOR OTHER PURPOSES

APRIL 23, 1975

Serial No. 94-25

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SUMMARY OF RECOMMENDATIONS ON H.R. 3650

Mr. Thomas A. Tinsley, Director, Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission, Wednesday, April 23, 1975:

(1) Those payroll savings which agencies gain from reemployment of annuitants should be redeposited into the U.S. Treasury instead of the Civil Service Retirement Fund.

(IV)

REEMPLOYED ANNUITANT PROVISIONS

WEDNESDAY, APRIL 23, 1975

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS,
Washington, D.C.

The subcommittee met at 9 a.m., in room 210 of the Cannon House Office Building, Hon. John W. Jenrette (acting chairman of the subcommittee) presiding.

Mr. JENRETTE. The subcommittee will come to order.

The subcommittee chairman, Mr. White, had to speak at the State Department this morning.

The subcommittee has convened this morning to open hearings on H.R. 3650 introduced by Congressman David N. Henderson, Democrat of North Carolina.

H.R. 3650 clarifies the application of section 8344 of title 5 of the United States Code relating to Federal Civil Service annuitants and their annuities and pay upon reemployment in the Federal service.

The bill would require agencies who reemploy annuitants to pay into the retirement fund the amount they deduct from an employee's pay when the employee is a reemployed annuitant.

This would, in effect, prevent agencies from getting expensive labor at the expense of the Federal service retirement fund, and at the same time would have the effect of increasing the assets of the fund.

Thus, H.R. 3650 will help not only to stem the ever-rising unfunded liability of the fund, which is presently at \$80 million, but may, in fact, help decrease the liability over an extended period of time.

This subcommittee appreciates the fact that the Federal civil service retirement fund is one of the few soluble funds the Government now has, and we recognize our duty to all present and future Federal workers who have earned an interest in the fund to keep it that way.

With this thought in mind, I would like to welcome Mr. Thomas A. Tinsley of the Civil Service Commission, Director of the Bureau of Retirement, Insurance, and Occupational Health, as our first witness.

Before we call on Mr. Tinsley, we have a statement by the full committee chairman, Mr. Henderson.

STATEMENT OF HON. DAVID N. HENDERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. HENDERSON. Mr. Chairman and members of the Subcommittee on Retirement and Employee Benefits, I am most appreciative of your courtesy and cooperation in scheduling hearings on my bill, H.R. 3650.

The primary purpose of the bill is twofold: (1) to clarify the intent of Congress with respect to the treatment of reemployed annuitants whose annuities are based upon involuntary separations, and (2) to require agencies to deposit in the retirement fund the amounts of annuity deducted from the salaries of reemployed annuitants.

First, the bill will have the effect of reaffirming the intent that annuitants whose rights were based upon involuntary separations not be permitted to receive full salaries and annuities upon reemployment in Government service. While the Civil Service Commission covers the question by its regulatory authority, the bill will authorize present practice by unmistakably clear legislative language.

Involuntary retirees who are reemployed in positions subject to the retirement law will have their annuities terminated and draw the full salary of the position; and those who are reemployed in positions not subject to the retirement law, such as temporary appointments, will continue to receive annuity payments, but have salary reduced by the amount of such annuity—the same as applies to reemployed annuitants who voluntarily retired.

Present law is deficient with respect to involuntary retirees whose salaries upon reemployment are reduced by the rate of annuity, in that it fails to provide them the supplemental benefit or recomputation right enjoyed by voluntary retirees. Provision is also made in the bill to correct this.

Secondly, the bill incorporates a provision to require that agencies deposit to the credit of the retirement fund an amount equal to the annuity deducted from a reemployed annuitant's pay.

H.R. 3650 incorporates several additional amendments of a minor remedial nature, eliminates certain obsolete language and dates, and realines the existing pertinent paragraphs of chapter 83 of title 5, United States Code, to improve its form.

The administration supported a bill similar to this in the last Congress, H.R. 11240. It is anticipated that it will continue to support most, if not all, of the provisions in H.R. 3650. Accordingly, I would urge the subcommittee to give this legislation its thorough consideration and early approval.

Mr. JENRETTE. Mr. Tinsley, it is good to have you before the subcommittee.

STATEMENT OF THOMAS A. TINSLEY, DIRECTOR, BUREAU OF RETIREMENT INSURANCE AND OCCUPATIONAL HEALTH, U.S. CIVIL SERVICE COMMISSION

Mr. TINSLEY. Thank you, Mr. Chairman. Again, I appreciate the opportunity to appear before the subcommittee to give the Commission's views on this bill.

I have no prepared statement, Mr. Chairman. However, the Commission has presented its views on the bill in a letter to the chairman of the full committee, and with your permission I would suggest that the letter be inserted in the record.

Mr. JENRETTE. The letter from Chairman Hampton of April 23, 1975, will be placed in the record at the end of your remarks.

Mr. TINSLEY. The bill, Mr. Chairman, is a relatively simple bill. Section 1 of the bill deals with reemployed annuitants who receive both Federal pay and annuity.

As you indicated in this situation no deductions for the civil service retirement and disability fund are withheld from his or her pay, and the employing agency deducts an amount from the pay equal to the annuity payable for the period of actual employment.

This offset assures that the annuitant will not receive his full salary concurrently with his annuity.

However, it enables the reemploying agency to save money out of funds appropriated to it for the payment of salaries.

By reemploying an annuitant, an employing agency retains the amount of pay that is offset by the annuity.

Under this bill agencies that reemploy annuitants would be required to deposit in the Treasury of the United States to the credit of the civil service retirement and disability fund the amount that it offsets and deducts from the reemployed annuitant's pay.

The Commission agrees that the agency should bear the full cost of salaries of reemployed annuitants. However, we recommend that the salary withholdings be deposited in the general fund of the Treasury.

Additionally, section 1 of the bill would amend section 8344 to make a number of technical, perfecting, and other clarifying amendments relating to the treatment of pay and annuity for a reemployed annuitant.

Section 2 would also allow credit for post-1956 military service in the computation of civil service retirement annuity for certain individuals who before becoming eligible for military retired pay leave active military service to accept an appointment by the President to a Federal civil service position requiring Senate confirmation.

Briefly, Mr. Chairman, that is a summary of the Commission's position as expressed in Chairman Hampton's letter.

I will be glad to furnish any additional information or respond to any questions you or the other subcommittee members may have.

Mr. JENRETTE. Mr. Tinsley, you say the administration position would be to go into the Treasury rather than to the fund. How would that help the fund in any way to increase its present situation?

Mr. TINSLEY. This would not help the fund, Mr. Chairman. I believe the theory advanced for depositing it in the general fund of the Treasury is that this is where the money came from originally. It was an appropriation made to the agency to pay salaries and expenses and, therefore, should be returned to the general fund and Treasury.

However, you are correct, Mr. Chairman, this in no way would improve the financial condition of the retirement fund.

Mr. JENRETTE. Would you support an amendment or proposition whereby a percentage was given to the fund and a percentage given to the Treasury?

Mr. TINSLEY. I think that would become a complicated matter, Mr. Chairman. Frankly, I think it should go either one place or the other.

Mr. JENRETTE. Mr. Tinsley, do you have any idea of the number of people that we would be talking about if we were counting as of today?

Mr. TINSLEY. This is a very difficult situation to keep track of because they are on and off agency rolls. Reemployed annuitants rarely work for extended periods of time in any large numbers.

We estimate that at most points in time there are approximately 3,000 reemployed annuitants on the roll.

Now, that 3,000 would probably change. They would be different individuals next month from some of the ones this month.

Mr. JENRETTE. Are these reemployed, and I might be getting out of your normal category, but are they given any sort of preferential treatment by these agencies? Is there preferential treatment?

Mr. TINSLEY. No, Mr. Chairman. If anything, it is not an advantage to the individual to be reemployed because when you are a reemployed annuitant, one, you suffer the setoff against your salary; two, you serve at the pleasure of the appointing official, which means at quitting time any day he can just tell you don't come in tomorrow. So it has those disadvantages.

Now, at the present time what has happened, or what is happening and what some people view as being a defect in the system and not necessarily the retirement system, but the pay system, is that a number of individuals in frozen salaries, namely the Government executives, are retiring, if they are eligible to retire, in order to gain the advantage of the cost-of-living increases provided in the Retirement Act and are coming back and serving as reemployed annuitants.

In doing this in today's economic climate the individual would receive a greater retirement benefit because of the cost-of-living increases than he would if he remained in service at his frozen salary level.

So today that is the only conceivable advantage that an individual would have in becoming a reemployed annuitant.

Mr. JENRETTE. If he came back at a greater salary than his annuity he would be building up future annuity increases, would he not?

Mr. TINSLEY. If you are speaking of the cost-of-living increases on the retirement system, that would increase his annuity more than any period of service that he would have, if he is at that frozen salary level. He only receives 2 percent for each year of service. And when you compare that with the 6.5 percent and 7.3 percent cost-of-living increases in the last year, and with another one due the first of August which undoubtedly will not be that high, but these certainly at that level produce a greater retirement benefit than staying on the Federal payroll at \$36,000 a year. You would have to stay quite a few years in order to improve your retirement position.

Mr. JENRETTE. I have as a member on my staff a retired employee who worked for a former Member. He came back with me when I was elected under the circumstances that you just went over, and I am not able to pay him the full amount. What would this bill do to Members of Congress and their staff employees, if anything? Would the Member be required to pay to the Treasury under your proposition the difference between the—

Mr. TINSLEY. As I understand the bill, yes, Mr. Chairman. Congress would not be exempt.

Mr. JENRETTE. I just lost an employee, in fact three now. I guess it would be a fair statement to say that the agencies have not used this as a tool to circumvent a number requirement or a funding requirement by Congress; or have they?

Mr. TINSLEY. We do not have any proof that agencies are using this to do this or that any abuse exists. We did a study in 1973 shortly after July to determine what the situation was. We are presently in the

process of doing a study at the request of the majority leader of the Senate, Mr. Mansfield, and the chairman of the Senate Post Office and Civil Service Committee, Senator McGee. It will take us several months to complete that study.

At that point we will be able to compare our findings now as to the situation that existed in 1973. The summer of 1973. At that time most of the reemployed annuitants were in the Department of Defense and a great many of them that were there at that point in time were there because of the fact that there were a number of base closings, so they took advantage of early retirement right before a cost-of-living increase which was sizable, and in the meantime a number of them had to remain on in finishing off the base closings.

At that time, most of those reemployed annuitants that we found, both in Defense and other places, were employed for relatively short periods of time, 3 months, 6 months at most; a few longer. But we didn't find any real abuse in the system.

Now, it is true that the potential for abuse exists because if an agency wished it could very well, after Congress, or the Office of Management and Budget, or someone else had reduced their funds on the theory that they were going to reduce the number of people working for them, turn around and by increasing the number of reemployed annuitants, use the salary and expense money for other purposes or for higher staffing levels.

The potential is there, Mr. Chairman.

Mr. JENRETTE. Do you have evidence that any annuitants have come back, in great number, in a consultant capacity under an executive II level or whatever it might be, and how does that affect the funds above—if he gets \$162 a day as a consultant, that would be \$36,000, whatever the top pay of the executive, he would retire at the \$25,000 level, what happens to the difference if he comes back as a consultant, if anything?

Mr. TINSLEY. If he comes back as an expert consultant, in most instances—or if he comes back as an independent contractor—there would be no effect on his annuity. He would receive both.

If he came back under a personnel service contract and was clearly under the control and supervision of the employing agency, whatever he was receiving would have to be reduced by the amount of his annuity.

There are certain agencies who are able to employ, even on a personnel service contract, experts or consultants without any reduction in annuity.

These agencies include, I believe, the Agency for International Development, Peace Corps has some exclusions, or did have, several others in the Foreign Service area.

I will be glad to furnish for the record, Mr. Chairman, a list of those agencies that do have exclusions. There are a number of independent types.

Mr. JENRETTE. It appears from the letter by the Chairman and your statement that the administration does take a pretty hard line view as to where the funds should go, and apparently that is going to be where we really come to some area of possible compromise; and you see no way that a percentage basis could be worked out with any degree of equity or any degree of lack of confusion?

Mr. TINSLEY. In this situation? Normally there are areas of compromise. In this situation I don't believe that it would do anything other than complicate the situation if you decide to divide whatever it was. It would create a problem for the agencies and, quite frankly, while this is the administration's position that they feel that that is where it belongs, I think in the last Congress, just as now, there are a number of people who just as strongly feel it belongs over in the retirement fund.

Basically the only reason that the situation is handled the way it is, is for administrative convenience. We would find it difficult knowing who was reemployed while we were paying an annuity.

We could, as we do in other situations, suspend the annuity or terminate it while the individual is reemployed, and it would have the same effect. In that case the money would stay in the retirement fund.

So it is largely because the agency knows initially who they have as a reemployed annuitant, his salary, how long he will be employed, that we continue to pay the annuity, and they reduce the salary, it is largely just for that reason.

Mr. JENRETTE. For my personal information on the reverse that you mentioned, if you cease paying the annuity and the individual came back drawing his full amount, he would accrue the 2 percent per year, but would not be allowed to have the cost of living that he would if he were drawing his retirement; is that correct?

Mr. TINSLEY. His annuity would continue as of the date of his first separation. Now, the only way he could get any more annuity on top of that would be what we call a supplemental annuity, and a supplemental annuity would only be payable if he continued in employment for 1 full year. After that he would be entitled to supplemental annuity.

However, that would not affect his basic annuity which would have the cost-of-living increases added to it. It would after that date.

Mr. JENRETTE. You misunderstood me or I misunderstood you. I believe you said administratively you could stop the annuity and pay the man a full pay. If that be the case, he would, in effect, during the time of employment, lose his cost-of-living benefits, or would that be accrued and paid to him when he went back?

Mr. TINSLEY. They would be lost, insofar as any that occurred during the period. His annuity would be resumed in the same amount.

Mr. JENRETTE. At that time?

Mr. TINSLEY. Yes. With the supplemental annuity if he was there for 1 year. If he stayed for 5 years, we would recompute the whole annuity.

Mr. JENRETTE. Mr. McCluskey, assistant counsel, has a couple of questions.

Mr. McCLUSKEY. Mr. Tinsley, going over the bill real quickly and looking at Mr. Henderson's statement, I would just like to reaffirm the chairman I think has brought out that it is the intent of this bill and the intent of the author, and I think of the subcommittee, that this money would be deposited into the retirement fund to help build up the assets of that fund.

In your personal opinion do you think this bill would affect the hiring of annuitants? In other words, you have said that presently these agencies are able to save some money. If this bill is passed, they are not going to be able to save any money.

Mr. TINSLEY. I believe the bill would have the effect of where the agency was doing this for the purpose of using it or if you want, to abuse and take advantage of the system, I think it would deter them from doing that.

I think where the agency legitimately needed the services of an individual, where the individual had something to contribute—and there are many instances where this is the case—that it would not in anyway affect that.

I think it would just be another step in the direction of removing any chance that anybody is going to use this to their advantage.

Mr. JENRETTE. That would be the case under either situation; for the Treasury or back to the fund.

Mr. TINSLEY. That's correct.

Mr. JENRETTE. So I think that the underlying principle of the bill, you agree with.

Mr. TINSLEY. Oh, yes, certainly.

Mr. JENRETTE. We have been in limbo too long.

Mr. TINSLEY. Yes. I think for the last 6 years we have been attempting to get legislation along this line. So certainly I think the legislation is desirable and needed. And I might point out that in this area, in the case of a Member of Congress who becomes reemployed, we suspend his annuity. Or in the case of a Member of Congress who comes in under the retirement fund into the system again in the executive branch, the money for his retirement would go into the retirement fund. It is going into the retirement fund now. It is going into the Treasury.

Mr. JENRETTE. Do you have any statistics on approximately how many in any given time?

Mr. TINSLEY. I don't know how many former Members of Congress are now employed in the executive branch in this situation.

Mr. JENRETTE. Is an annuity affected if a former Member is in jail?

Mr. TINSLEY. It depends on what he is in jail for. The only time we can deny an individual an annuity or suspend annuity is if he is convicted of certain crimes specified in the law, and those crimes are the ones that normally involve national security.

Mr. JENRETTE. The gentleman from Virginia.

Mr. HARRIS. No questions. I just want to welcome Mr. Tinsley.

Mr. TINSLEY. Thank you, Mr. Harris. It is a pleasure to be here.

Mr. JENRETTE. Do you have any closing statement, Mr. Tinsley, or anything further that you wish to add?

Mr. TINSLEY. No, Mr. Chairman. I would be glad, if the subcommittee desires, to furnish any additional information for the record, or respond to any additional questions that they might want to submit to me.

Mr. JENRETTE. Thank you, Mr. Tinsley.

The subcommittee will adjourn.

[Whereupon, at 9:35 a.m., the subcommittee hearing was adjourned.]

[The letters and statements which follow were received for inclusion in the record:]

U.S. CIVIL SERVICE COMMISSION,
BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH,
Washington, D.C., April 28, 1975.

Hon. RICHARD WHITE,
Chairman, Subcommittee on Retirement and Employee Benefits of the Committee on
Post Office and Civil Service, Rayburn House Office Building, Washington, D.C.

DEAR MR. WHITE: A hearing was held on H.R. 3650 on April 23, 1975, and I
was asked to forward for the record a list of exclusions to the pay reduction pro-
vision of reemployment of annuitants.

The enclosed copy of "A Study of Reemployed Annuitants" is for your infor-
mation. The requested list is shown in Appendix B of that study.

Sincerely yours,

THOMAS A. TINSLEY,
Director.

STATUTORY EXCLUSIONS FROM OPERATION OF REEMPLOYMENT OF ANNUITANT PROVISION OF RETIREMENT
LAW REQUIRING REDUCTION OF SALARY BY AN ANNUITY EQUIVALENT

Boxing Commission, District of Columbia.	Public Law 81-720, Aug. 19, 1950 (64 Stat. 466).	Persons appointed to Boxing Commission.
Board of Elections, District of Columbia.	Public Law 84-376, Aug. 12, 1955 (69 Stat. 699).	Board member and employees of Board.
Teachers, District of Columbia.	Public Law 85-385, Apr. 24, 1958 (72 Stat. 98).	Retired teachers under D.C. Teachers Act and Civil Service Retirement Act reemployed as temporary substitute teachers in D.C. Schools.
Jefferson National Expansion Memorial.	Public Law 83-361, May 17, 1954 (86 Stat. 98) sec. 2(a).	Architects, engineers, artists, other expert consultants, etc. See 38 Comp. Gen. 850.
Mutual Security Act of 1954.	Public Law 83-665, Aug. 26, 1954 (68 Stat. 859) sec. 523.	Member, International Development Advisory board established under sec. 308, and experts and consultants appointed under sec. 530(a).
Foreign Assistance Act of 1961.	Public Law 87-195, Sept. 4, 1961: (1) Sec. 626(b) 22 U.S.C. 2386(b), supp. V. (2) Sec. 636(a)(3), 22 U.S.C. 2396(a) (3) supp. V.	Experts and consultants, as authorized by 5 U.S.C. 3109 employed under sec. 626(a). Contract for personal services abroad other than for military assistance purposes under pt. II.
Peace Corps Act.	Public Law 87-392, Sept. 22, 1961: (1) sec. 13(b). (2) sec. 10(a)(4).	Peace Corps National Advisory Council members, experts and consultants. Contract for personal services abroad and with aliens for personal services within the United States.
Arms Control and Disarmament Act.	Public Law 87-297, Sept. 26, 1961, sec. 44.	General Advisory Committee member, advisory board member, experts, consultants or individuals of outstanding ability.
Members and patients Veterans' Administration hospitals.	Public Law 87-574, Aug. 6, 1962, sec. 2.	Inserts in title 38, USC, a new sec. 618 "Therapeutic and rehabilitative activities" stating that members and patients employed for these purposes shall not be employees of United States for any purpose.
Voting Rights Act of 1965.	Public Law 89-110, Aug. 6, 1965, sec. 6.	Service of examiners and other persons under this act shall not be considered employment for purposes of any statute administered by CSC, except 5 U.S.C. 7324 prohibiting partisan political activity.
Economic Stabilization Act Amendments of 1971.	Public Law 92-210, Dec. 22, 1971, sec. 213.	Service of experts and consultants—Price Commission.

STATEMENT OF CLYDE M. WEBBER, PRESIDENT, AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES

AFGE is grateful to be afforded the opportunity to present its views on Mr. Henderson's bill, H.R. 3650, relating to Civil Service retirement annuities and pay on reemployment.

Under present law, a Federal employee who retires may be reemployed by the Government. Such an employee continues to receive his Civil Service annuity, but the employing agency is required to reduce the salary paid by an amount equal to the annuity allocable to the period of actual reemployment. For reemployed Members of Congress, section 8334(b)(2) of title 5, United States Code, provides that the amount of the annuity withheld from Members' salaries shall be deposited to the credit of the Retirement Fund in the United States Treasury.

No provision exists for the disposition of the annuity equivalents for other reemployed annuitants.

H.R. 3650 would require that the funds deducted by employing agencies be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund as is already the procedure for salaries paid reemployed Members of Congress. AFGE agrees that agencies which reemploy annuitants should bear the full payroll costs of their salaries. Agencies should not retain funds equivalent to amounts earned by annuitants, and agencies should not profit at the expense of the annuity fund.

The Civil Service Commission has recommended that the salary withholdings be deposited to the General Fund of the Treasury rather than to the credit of the Retirement Fund. AFGE understands that the Civil Service Commission does not want it to appear that the CSC is giving annuities with one hand and taking them back with another. Arguments can be made both ways for disposition of salary withholdings, but AFGE prefers that the funds be deposited to the credit of the Civil Service Retirement and Disability Fund rather than returning them to general appropriations funds. Since the main point of this legislation is the requirement that agencies be charged the total payroll costs for reemploying annuitants, AFGE recommends that H.R. 3650 be swiftly enacted.

The remaining sections of H.R. 3650 provide for certain technical corrections of 5 U.S.C. 8344 which are supported by AFGE.

We thank the Subcommittee and Chairman White for the opportunity to testify on this legislation which we believe to be a positive step toward equitable disposition of retirement funds upon reemployment.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 23, 1975.

HON. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives,
Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to the committee's request for the views of this Office on H.R. 3650, "To clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes."

The purpose of the bill is to require that amounts withheld from the salaries of reemployed annuitants be deposited to the credit of the Civil Service Retirement Fund. In its report the Civil Service Commission states its reasons for recommending enactment of the bill and recommends that the amounts withheld be deposited to the General Fund of the Treasury rather than to the credit of the Retirement Fund.

We concur in the views expressed by the Civil Service Commission and, accordingly, recommend enactment of H.R. 3650 provided it is amended as indicated above.

Sincerely,

JAMES M. FREY,
Assistant Director for Legislative Reference.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., April 23, 1975.

HON. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on H.R. 3650, a bill "To clarify the application of section 8344 of title 5, United States Code, relating to civil service retirement annuities and pay on reemployment, and for other purposes."

An employee who retires under the Civil Service Retirement law is not barred from reemployment by the Government because of retired status and, generally, continues to receive annuity during reemployment. The employing agency, however, is required to reduce the salary paid by an amount equal to the annuity allocable to the period(s) of reemployment. Neither the retirement law nor its

legislative history gives any direction as to the disposition of the annuity equivalent withheld by the agency from the salary of a reemployed annuitant, except with regard to certain reemployed retired Members of Congress.

In the case of a retired Member of Congress, section 8344(b)(2) of title 5, United States Code, provides that if reemployment is on an intermittent basis (generally, reemployment in an appointive or elective position results in suspension of annuity payments during the reemployment period), (1) the Member's annuity payments are continued during reemployment, (2) the reemployment salary is reduced by the amounts of annuity paid during the actual period(s) of reemployment, and (3) the equivalent of the annuity payments so withheld from the Member's salary by the employing agency is deposited in the United States Treasury to the credit of the Retirement Fund. The reason for requiring agencies to deposit these withholdings in the Retirement Fund is to assure that the total cost of any salary expense for intermittently reemployed Members of Congress be charged as a payroll cost to the agency, rather than be charged in whole or in part to the Civil Service Retirement and Disability Fund (H.R. Rep. No. 832, 86th Cong., 1st Sess. 3 (1959)). This is the only type of case in which the equivalent of annuity payments withheld from reemployment salary is deposited in the Retirement Fund. In all other cases where such withholdings are made, employing agencies retain the salary savings in their appropriations, with the result that the total salary cost for reemployed retired employees (unlike such cost for reemployed Members of Congress) is not being charged as a payroll expense to agencies.

Section 1 of H.R. 3650 would, among other things, amend 5 U.S.C. 8344(a) to require that the amounts so deducted by the agencies be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

The Commission agrees that agencies should bear the full payroll costs of the salaries of reemployed annuitants. However, we recommend that the salary withholdings be deposited to the General Fund of the Treasury.

Additionally, section 1 of the bill would further amend 5 U.S.C. 8344 to make a number of technical perfecting and clarifying amendments relating to the treatment of pay and annuity for a reemployed annuitant. Section 2 of the bill would amend 5 U.S.C. 8332 to allow credit for post-1956 military service in the computation of Civil Service Retirement annuity for certain individuals who, before becoming eligible for military retired pay, leave active military service to accept a Federal civil service appointment by the President which requires Senate confirmation. The Commission has no objection to these amendments.

In summary, the Commission supports enactment of H.R. 3650, modified as indicated above.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT E. HAMPTON,
Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., April 24, 1975.

HON. DAVID N. HENDERSON,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives.*

DEAR MR. CHAIRMAN: In your letter of March 3, 1975, you requested our report on H.R. 3650, 94th Congress, a bill "To clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes."

The bill would make one major substantive amendment: it would require reimbursement of the Civil Service Retirement and Disability Fund in an amount equal to the annuity payments made to reemployed annuitants and withheld from the pay due them in the positions in which reemployed. In addition the bill would make certain clarifying amendments and minor revisions to 5 U.S.C. 8344 concerning the annuities and compensation of reemployed annuitants.

Section 1 of the bill would amend 5 U.S.C. 8344(a) to provide that an amount equal to the annuity allocable to the period of actual employment which under current law must be deducted from the annuitant's pay in a position in which he is reemployed shall be deposited in the Treasury of the United States to the credit of the Retirement Fund under such procedure as the Comptroller General of the

United States shall prescribe. At present agencies are permitted to retain the savings realized from the deduction requirement, thus, in effect, permitting the retirement fund to subsidize agency operations. We support this provision of H.R. 3650, since it would require the agencies to pay the full cost of employees' services; would result in agency budgets that reflect the true costs of operation, and it would make the retirement fund whole.

H.R. 3650 provides that the annuity of a reemployed annuitant who served on a part-time basis for periods equivalent to at least 1 year of full-time service be increased on termination of employment by an amount based on the period of employment and the basic pay, before deduction, averaged during that employment. Under current law, an annuitant must be reemployed on a *full-time* basis for at least 1 year to qualify for a supplemental annuity. Whether equivalent part-time service should also qualify for an increased annuity is a matter on which we have no specific comments.

H.R. 3650 provides that if an annuitant whose annuity is based on an involuntary separation becomes reemployed, the annuity terminates upon reemployment. According to the Civil Service Commission, this practice is already in effect by administrative regulation, and existing legislation does not give specific guidance on the matter. The effect of this treatment of involuntarily-retired annuitants upon reemployment is that they are able to have their annuities redetermined when the reemployment ends thereby being able to take advantage of any increases in their pay average, benefit liberalizations, etc., occurring since their previous retirement. This practice appears equitable in view of the fact that the annuitants were initially retired involuntarily and presumably would otherwise have remained employed.

H.R. 3650 provides that if an annuitant is appointed by the President to a position subject to the reemployment provisions, payment of his annuity terminates on reemployment. The effect of this change would be to grant Presidential appointees the advantage of having their annuities recalculated at the end of the reemployment period. This is a matter on which we have no comments.

H.R. 3650 would delete the current provision that the reemployment rules do not apply to a retired Member of Congress if he is appointed to a position that does not require confirmation by the Senate. Under current law, the annuity of a retired Member of Congress who subsequently serves in an appointive or elective position is discontinued during the employment period and resumed in the same amount at termination. The Member may elect to have his annuity recomputed as if the additional service had been performed before his retirement. These provisions do not apply, however, to a Member who is appointed by the President to a position not requiring Senate confirmation. H.R. 3650 would apply the same reemployment provisions to all retired Members of Congress regardless of whether appointment required Senate confirmation. This is a matter on which we have no comments.

H.R. 3650 would provide that creditable service used in calculating the civil service annuity payable to a retiree at age 62 shall include military service performed by an individual who, for purposes of accepting an appointment by the President to a position requiring Senate confirmation, obtained a discharge or separation prior to becoming entitled to military retired pay. In general, periods of military service are considered as creditable service in determining civil service retirement annuities. Current law provides, however, that the annuity must be recalculated when the annuitant becomes age 62 to exclude such service if he is entitled to old age or survivors insurance benefits (Social Security). The change proposed by H.R. 3650 appears to be intended to provide an inducement for military personnel to forego military retirement benefits to accept a Presidential appointment to a position covered by civil service retirement. The Civil Service Commission has been able to identify only two individuals who would be currently affected by this change—former astronauts Andrews and Collins.

We understand that the primary intent of the subject bill is to correct an anomalous situation which, due to an omission in the retirement law, permits agencies to retain the difference between a reemployed annuitant's salary and annuity. Although we believe that the correction of this anomaly is advisable for the previously stated reasons and it may also encourage agencies to reemploy annuitants only where they are essential to carrying out the agency's mission, we believe that this anomaly represents only one employment problem growing out of a more serious problem which we think merits Congressional action. This is the question of the rehiring of retired annuitants for longer than is necessary to satisfy an emergency situation which a particular agency may face. We have

come to the conclusion that this practice constitutes a circumvention of the legal intent of Congress in establishing the freeze on the salaries of high-level officials in the Government. This situation arose out of the spiraling high rate of inflation coupled with the automatic cost-of-living increases for annuitants and the freeze on salaries. For the reasons stated, we believe that legislation which would correct this problem deserves the consideration of the Congress.

Enclosed for your consideration is a proposed amendment to 5 U.S.C. 3323(b) which we believe should be considered by the committee.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Enclosure.

(Suggested Amendment to 5 U.S.C. 3323(b))

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3323(b) of title 5, United States Code, is amended by inserting between the first and second sentences the following new sentence:

"An agency may rehire such an annuitant if he otherwise qualifies as an expert or consultant, but in no event may such an annuitant be rehired for a period of employment in excess of 130 days in any one year."

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, D.C., April 29, 1975.

HON. DAVID N. HENDERSON,
*Chairman, Committee on Post Office and Civil Service, Cannon House Office Building,
U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your letter of April 3, 1975 requesting comments from the Committee on House Administration on H.R. 3650.

Attached is a Ramseyer draft of a portion of subparagraph (4) on Page 2, lines 8 through 23, reflecting some additional suggested language that would be applicable to the Congress.

In addition it may be appropriate to include within the accompanying report on this bill that the procedures prescribed by the Committee on House Administration may well include, but not limited to, payments from the contingent fund to cover "amounts so deducted" to be deposited in the Treasury of the United States to the credit of the fund.

With kind regards, I am

Very sincerely yours,

WAYNE L. HAYS,
Chairman.

Attachment.

"(4) a Member receiving annuity from the Fund; becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States shall prescribe, except that the Committee on House Administration shall prescribe such procedures for the United States House of Representatives and the Committee on Rules and Administration shall prescribe such procedures for the United States Senate. If the annuitant serves in a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not excluding him from coverage under section 8331 1)(i) or (ii) of this title—

U.S. HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
May 9, 1975.

Subject: Report on H.R. 3650.

From: W. Pat Jennings, Clerk, U.S. House of Representatives.

To: Honorable David N. Henderson, Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives.

H.R. 3650 amends Section 8344 of Title 5, U.S. Code, which governs payments to reemployed annuitants. My report outlines two important ramifications pertaining to annuitants reemployed in the U.S. House of Representatives.

The first major change requires an agency which reemploys an annuitant to reimburse the Civil Service Retirement Fund an amount equal to the annuity received by the reemployed annuitant. Therefore, it would become necessary to reimburse the Retirement Fund from appropriated funds of the House for the amount of the annuity paid to reemployed annuitants. As an example, rather than reemploying an annuitant who has a \$5,000 annual annuity at a rate of \$15,000 per annum and paying him only \$10,000 from House appropriated funds, this legislation would require the House to reimburse the Retirement Fund in the amount of \$5,000, representing the amount of the annuity.

The following schedule illustrates the recent growth in the number of reemployed annuitants on the House of Representatives' payrolls and the respective dollar amount of their annuity:

	Number of reemployed annuitants	Monthly annuity	Annual annuity
June 30, 1972.....	54	\$42,580	\$510,960
June 30, 1973.....	71	61,869	743,628
June 30, 1974.....	113	117,950	1,415,500

As of January 31, 1975, the number of reemployed annuitants on the House payrolls was one hundred thirty six persons receiving total annuity payments of \$167,269 per month or \$2,007,228 annually.

H.R. 3650 also changes existing procedures allowing reemployed annuitants to earn supplemental annuity benefits. A supplemental annuity is in addition to the regular annuity, received upon separation, if the employee has at least one year of continuous service as a reemployed annuitant. Under existing interpretation of the law, only those individuals who retired voluntarily were eligible for supplemental annuities. H.R. 3650 extends this privilege to an annuitant who retires involuntarily. If passed, this may encourage involuntary retirees to try for reemployment to establish entitlement to the supplemental annuity.

Inasmuch as it affords involuntary retirees the privileges of voluntary retirees, this bill is a relaxation of age and service requirements for retirement for Congressional employees.

94TH CONGRESS
1ST SESSION

H. R. 3650

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1975

Mr. HENDERSON introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That (a) section 8344 (a) of title 5, United States Code, is
4 amended to read as follows:

5 “(a) If an annuitant receiving annuity from the Fund,
6 except—

7 “(1) a disability annuitant whose annuity is termi-
8 nated because of his recovery or restoration of earning
9 capacity;

I

1 “(2) an annuitant whose annuity, based on an in-
2 voluntary separation (other than an automatic separation
3 or an involuntary separation for cause on charges of mis-
4 conduct or delinquency), is terminated under subsection
5 (b) of this section;

6 “(3) an annuitant whose annuity is terminated
7 under subsection (c) of this section; or

8 “(4) a Member receiving annuity from the Fund;
9 becomes employed in an appointive or elective position,
10 his service on and after the date he is so employed is cov-
11 ered by this subchapter. Deductions for the Fund may not
12 be withheld from his pay. An amount equal to the annuity
13 allocable to the period of actual employment shall be de-
14 ducted from his pay, except for lump-sum leave payment
15 purposes under section 5551 of this title. The amounts so
16 deducted shall be deposited in the Treasury of the United
17 States to the credit of the Fund under such procedures as
18 the Comptroller General of the United States shall prescribe.
19 If the annuitant serves on a full-time basis, except as Presi-
20 dent, for at least 1 year, or on a part-time basis for periods
21 equivalent to at least 1 year of full-time service, in employ-
22 ment not excluding him from coverage under section 8331
23 (1) (i) or (ii) of this title—

24 “(A) his annuity on termination of employment is
25 increased by an annuity computed under section 8339

1 (a), (b), (d), (e), (h), and (i) of this title as may
2 apply based on the period of employment and the basic
3 pay, before deduction, averaged during that employ-
4 ment; and

5 “(B) his lump-sum credit may not be reduced by
6 annuity paid during that employment.

7 If the annuitant is receiving a reduced annuity as provided
8 in section 8339 (j) or section 8339 (k) (2) of this title, the
9 increase in annuity payable under subparagraph (A) of this
10 subsection is reduced by 10 percent and the survivor annuity
11 payable under section 8341 (b) of this title is increased by
12 55 percent of the increase in annuity payable under such sub-
13 paragraph (A), unless, at the time of claiming the increase
14 payable under such subparagraph (A), the annuitant noti-
15 fies the Commission in writing that he does not desire the
16 survivor annuity to be increased. If the annuitant dies while
17 still reemployed, the survivor annuity payable is increased as
18 though the reemployment had otherwise terminated. If the
19 described employment of the annuitant continues for at least
20 5 years, or the equivalent of 5 years in the case of part-time
21 employment, he may elect, instead of the benefit provided
22 by subparagraph (A) of this subsection, to deposit in the
23 Fund an amount computed under section 8334 (c) of this
24 title covering that employment and have his rights redeter-
25 mined under this subchapter. If the annuitant dies while still

1 reemployed and the described employment had continued for
2 at least 5 years, or the equivalent of 5 years in the case of
3 part-time employment, the person entitled to survivor an-
4 nuity under section 8341 (b) of this title may elect to de-
5 posit in the Fund and have his rights redetermined under
6 this subchapter.”.

7 (b) Section 8344 of title 5, United States Code, is
8 amended—

9 (1) by redesignating subsections (b) and (c)
10 thereof as subsections (d) and (e), respectively; and

11 (2) by inserting immediately after subsection (a)
12 thereof the following new subsections:

13 “(b) If an annuitant whose annuity is based on an
14 involuntary separation (other than an automatic separation
15 or an involuntary separation for cause or charges of miscon-
16 duct or delinquency) is reemployed in a position in which
17 he is subject to this subchapter, payment of the annuity ter-
18 minates on reemployment.

19 “(c) If an annuitant is appointed by the President to a
20 position in which he is subject to this subchapter, payment
21 of the annuity terminates on reemployment.”.

22 (c) Section 8344 (d) of title 5, United States Code,
23 as redesignated by this Act, is amended by striking out the
24 last sentence.

25 (d) Section 8339 (f) (2) (C) of title 5, United States

1 Code, is amended by striking out "8344 (b) (1)" and insert-
2 ing in lieu thereof "8344 (d) (1)".

3 SEC. 2. Section 8332 (j) of title 5, United States Code,
4 is amended—

5 (1) by striking out in the first sentence "except"
6 and inserting in lieu thereof "(except"; and

7 (2) by inserting in the first sentence, immediately
8 after "civilian position," the following: "or military
9 service performed by an individual who, for purposes of
10 accepting an appointment by the President to a position
11 requiring Senate confirmation, obtained a discharge or
12 separation prior to becoming entitled to retired pay on
13 account of such military service)".

14 SEC. 3. (a) Except as provided under subsection (b)
15 of this section, the amendments made by this Act shall be-
16 come effective on the date of enactment of this Act and shall
17 apply to annuitants serving in appointive or elective positions
18 on and after the date of enactment of this Act.

19 (b) The amendment made by subsection (e) of the first
20 section of this Act shall become effective on the date of enact-
21 ment of this Act but shall not apply to any annuitant reem-
22 ployed prior to the date of enactment of this Act.

○

94TH CONGRESS } HOUSE OF REPRESENTATIVES } REPORT
1st Session } No. 94-336

REEMPLOYED ANNUITANTS

JULY 9, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WHITE, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 3650]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 3650) to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 8344(a) of title 5, United States Code, is amended to read as follows:

"(a) If an annuitant receiving annuity from the Fund, except—

"(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

"(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation of an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

"(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

"(4) a Member receiving annuity from the Fund; becomes employed in an appointee or elective position, his services on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service in employment not excluding him from coverage under section 8331(1) (1) or (ii) of this title—

"(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

"(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k) (2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under his subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter."

(b) Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsections (b) and (c) thereof as subsections (d) and (e), respectively; and

(2) by inserting immediately after subsection (a) thereof the following new subsections:

"(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

"(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment."

(c) Section 8344(d) of title 5, United States Code, as redesignated by this Act, is amended by striking out the last sentence.

(d) Section 8339(f) (2) (C) of title 5, United States Code, is amended by striking out "8344(b) (1)" and inserting in lieu thereof "8344(d) (1)".

Sec. 2. (a) Except as provided under subsection (b) of this section, the amendments made by this Act shall become effective on the date of the enactment of this Act and shall apply to annuitants serving in appointive or elective positions on and after the date of the enactment of this Act.

(b) The amendment made by subsection (c) of the first section of this Act shall become effective on the date of the enactment of this Act but shall not apply to any annuitant reemployed before the date of the enactment of this Act.

EXPLANATION OF AMENDMENT

The committee amendment to H.R. 3650 substitutes an entirely new text for the text of the introduced bill. The explanation of the provisions of the substitute text is contained in the explanation of the bill as set forth hereinafter in this report.

PURPOSE

The primary purposes of H.R. 3650 are to—

(1) clarify the intent of Congress with respect to the treatment of reemployed annuitants whose annuities are based upon involuntary separations, and

(2) require agencies to deposit to the credit of the civil service retirement fund the amounts of annuity deducted from the salaries of reemployed annuitants.

COMMITTEE ACTION

A hearing on H.R. 3650 was held by the Subcommittee on Retirement and Employee Benefits on April 23, 1975 (Hearing No. 94-25). On June 9, 1975, the Subcommittee, by a unanimous voice vote, approved the bill, with amendments, for full Committee consideration. H.R. 3650, as amended, was ordered reported by a unanimous voice vote of the full committee on June 19, 1975.

STATEMENT

Prior to May 29, 1930, the Civil Service Retirement Act contained a general prohibition against the reemployment of an annuitant. In the act of May 29, 1930, that prohibition was partially relaxed to permit reemployment of deferred annuitants and those annuitants whose annuities were based on involuntary separations. In those cases annuities were terminated upon reemployment in any position.

Over the years the retirement provisions have been amended substantially so that now no employee or Members of Congress who retires under the civil service retirement law is barred from reemployment by the Government solely because of his retired status. In fact the Civil Service Commission reports that at any given time there are approximately 3,000 reemployed annuitants on the rolls of Government agencies.

Notwithstanding the numerous changes that have been made in the reemployment provisions of the civil service retirement law, these provisions remain deficient in two major respects. The primary purpose of this legislation is to correct these deficiencies.

The first deficiency relates to the treatment of reemployed annuitants whose annuities are based upon involuntary separations. The problem stems from the fact that the existing law is silent with respect to the treatment of such annuitants. The existing provisions of section 8344(a), relating to annuities and pay upon reemployment, apply only to annuitants who voluntarily retired. Under these provisions, the reemployed annuitant continues to receive his annuity, retirement contributions are not withheld from his pay, but an amount equal to his annuity allocable to the period of reemployment is deducted from his salary.

While the existing law does not contain specific provisions applicable to involuntarily retired annuitants, neither does it provide that such an annuitant may receive both his annuity and the full salary of the position upon subsequent reemployment. Therefore, in the absence of specific statutory language governing this category of annuitants, the Civil Service Commission has exercised its regulatory authority under section 8347(a) of title 5, United States Code, to cover these cases.

Under the Commission's regulations, if an involuntarily separated annuitant is reemployed in a position in which he is subject to the civil service retirement law, his annuity is terminated, retirement contributions are withheld from his pay, and future annuity rights are determined under the law in effect upon subsequent separation. If the annuitant is reemployed in a position in which he is not subject to the retirement law, such as a temporary appointment, his annuity pay-

ments continue, his salary is reduced by the amount of his annuity, and no retirement deductions are made.

The committee believes that the regulations of the Civil Service Commission provide for a logical and equitable treatment of involuntarily separated annuitants who are reemployed by the Government. The reported bill, H.R. 3650, in effect, incorporates such regulations into the reemployment provisions of section 8344 of title 5.

Unfortunately, the Civil Service Commission was unable, under its regulatory authority, to extend to involuntarily separated annuitants two benefits that, by law, are granted to voluntarily separated annuitants who are reemployed by the Government. Under existing law a reemployed annuitant (voluntarily separated) who serves for an additional period of at least one year is entitled to a supplemental annuity based on the period of his additional service. If the period of reemployment continues for at least 5 years, the annuitant may elect to deposit the retirement contributions which ordinarily would have been deducted from his salary during the period of reemployment and have his annuity recomputed on the basis of his total service under the retirement law in effect at the time of his separation from reemployment. This right of recomputation enables the annuitant to take advantage of any increase in average salary or retirement law liberalizations that may have occurred since his previous separation.

As indicated earlier, the existing law extends the supplemental annuity benefit and the right of recomputation after 5 years of service only to reemployed annuitants who voluntarily retired. H.R. 3650 eliminates this inequity by extending the same rights to involuntarily separated annuitants who are reemployed in positions in which they are not subject to the civil service retirement provisions.

In addition the committee bill amends the existing law to allow a supplemental annuity or annuity recomputation to be based on periods of part-time service equivalent to 1 year or 5 years of full-time service, as the case may be.

The other major deficiency in the existing reemployment provisions relates to the disposition of the amounts, equal to annuities, that are deducted from the salaries of reemployed annuitants. Under existing law Federal agencies are permitted to retain the salary savings in their appropriations which, in effect, results in the retirement fund subsidizing agency operations. This committee believes that Federal agencies should bear the full payroll costs of reemployed annuitants' services. There is no justification for requiring the retirement fund to bear any part of the cost of the salaries of reemployed annuitants. Thus, H.R. 3650 amends the existing law to require that the amounts deducted from the salaries of reemployed annuitants shall be deposited in the Treasury of the United States to the credit of the civil service retirement fund. In addition to improving the financial condition of the retirement fund, the committee believes that this requirement will serve to ensure that agencies will reemploy annuitants only when they are essential to carrying out the agency's mission.

In addition to the major changes discussed above, H.R. 3650 proposes to—

- (1) provide for termination of the annuity of an annuitant (other than a retired Member) who is appointed by the President to a position in which he is subject to the civil service retire-

ment provisions, thereby enabling such annuitant to acquire a new annuity entitlement after completing 1 year of service; and

(2) delete the current statutory provision which allows a retired Member of Congress who is appointed by the President to a position not requiring Senate confirmation to continue to draw his full retirement annuity as well as the full salary of the position to which appointed.

SECTION ANALYSIS

FIRST SECTION

Subsection (a) of the first section of the bill amends section 8344(a) of title 5, United States Code, so as to clarify the intent of Congress with respect to the treatment of reemployed annuitants whose annuities are based upon involuntary separations.

The existing provisions of section 8344(a) exempt involuntarily separated annuitants from the provisions governing the treatment of annuities and pay upon reemployment. While the Civil Service Commission's regulations do contain provisions covering the reemployment of annuitants whose annuities are based upon voluntary separations, such regulations are not based upon specific statutory provisions.

Under the amended language of section 8344(a), an involuntary retiree who is reemployed in a position in which he is not subject to the civil service retirement provisions, such as a temporary appointment, will continue to receive his full annuity but his salary will be reduced by an amount equal to his annuity allocable to the period of actual employment. If such annuitant serves on a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, the annuitant will be entitled to a supplemental annuity based on the period of reemployment. If the period of reemployment continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the annuitant may elect to deposit in the retirement fund an amount computed in accordance with section 8334(c) of title 5 and have his annuity recomputed on the basis of his total service, including the period of reemployment. Under existing law the right to a supplemental annuity, or recomputation after 5 years of service, extends only to annuitants whose annuities are based on voluntary separations.

In addition to the above, the amendment to section 8344(a) contains one other significant change in the language of the existing provision. At present the law is silent as to the disposition of the amounts, equal to annuities, that are deducted from the salaries of reemployed annuitants. Under the amendment to section 8344(a), agencies will be required to deposit such amounts in the Treasury of the United States to the credit of the civil service retirement fund.

The committee assumes that the Civil Service Commission will prescribe appropriate procedures governing the deposit of such amounts. However, with respect to annuitants reemployed by the House of Representatives or a Member thereof, it is the committee's intent that the appropriate procedures be prescribed by the Committee on House Administration, and that such procedures may provide for payment from the contingent fund to cover the amounts to be deposited in the Treasury to the credit of the retirement fund.

Subsection (b) of the first section of the bill amends section 8344 of title 5 by redesignating existing subsections (b) and (c) thereof as subsections (d) and (e), respectively, and by inserting new-subsections (b) and (c).

Under the new subsection (b), if an annuitant, whose annuity is based on an involuntary separation, is reemployed in a position in which he is subject to the civil service retirement provisions, the payment of his annuity terminates on reemployment. This provision is not applicable to a Member who is receiving an annuity from the Fund nor is the provision applicable in the case of an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency.

Under the new subsection (b) the annuitant's annuity will be terminated upon reemployment, the employing agency will withhold retirement deductions from the annuitant's pay, and future annuity rights will be determined under the law in effect at the time of separation from reemployment.

Similarly, under the new subsection (c), if an annuitant (other than a Member receiving an annuity from the fund) is appointed by the President to a position in which he is subject to the civil service retirement provisions, payment of his annuity will terminate upon reemployment. Such an annuitant will be treated in the exact manner as one reemployed under the new subsection (b), discussed immediately above.

Subsection (c) of the first section of the bill amends the former section 8344(b) of title 5, redesignated as subsection (d) by this bill, by striking out the last sentence thereof. The existing section 8344(b) contains provisions governing the reemployment of a Member of Congress who is receiving an annuity from the civil service retirement fund. Generally, the annuity of a retired Member who subsequently serves in an appointive or elective position is discontinued during the period of reemployment and is resumed in the same amount upon termination of reemployment. However, if the Member serves in an appointive position in which he is subject to the retirement provisions, he may elect to have his annuity recomputed as if the additional service had been performed prior to his separation as a Member. By virtue of the last sentence of section 8344(b), redesignated as (d) under this bill, these reemployment provisions do not apply to a retired Member who is appointed by the President to a position not requiring Senate confirmation. Such a Member is entitled to receive his full annuity as well as the salary of the position to which appointed.

The amendment made by subsection (c) of the bill would delete this exception and apply the same reemployment provisions to all retired Members of Congress.

Subsection (d) of the first section of the bill is a technical amendment made necessary by the redesignation of section 8344(b) as 8344(d).

SECTION 2

Section 2 of the bill sets forth the effective dates of the amendments made by the bill. The amendments made by subsections (a), (b), and (d) of the first section are effective on the date of enactment and will apply to annuitants serving in appointive or elective positions on and after the date of enactment. The amendment made by subsection (c) of

the bill is effective on the date of enactment but shall not apply to any annuitant reemployed prior to the date of enactment.

COSTS

The committee has determined that any additional costs to the Government resulting from the enactment of this legislation would be negligible. The provision requiring agencies to deposit to the credit of the retirement fund the amounts of annuity deducted from the salaries of reemployed annuitants will result in Federal agencies bearing the full payroll cost of any salary expenses of reemployed annuitants and would result in a corresponding savings to the civil service retirement fund.

INFLATIONARY IMPACT STATEMENT

Pursuant to House Rule XI, clause 2(1)(4), the committee has determined that the enactment of this legislation will not have an inflationary impact on the national economy in view of the negligible costs involved.

COMPLIANCE WITH CLAUSE 2(1)(3) OF RULE XI

With respect to the requirements of clause 2(1)(3) of House Rule XI—

(a) the Subcommittee on Retirement and Employee Benefits reviewed the provisions of law relating to reemployed annuitants and concluded that the law should be amended in the manner provided under this legislation;

(b) since section 308(a) of the Congressional Budget Act of 1974 is not yet in effect, no statement under this paragraph is furnished;

(c) no estimate or comparison of cost has been received by the committee from the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974; and

(d) the committee has received no report from the Committee on Government Operations of oversight findings or recommendations arrived at pursuant to clause 2(b)(2) of House Rule X.

AGENCY VIEWS

There are set forth below various reports on H.R. 3650.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., April 23, 1975.

HON. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on H.R. 3650, a bill "To clarify the application of section 8344 of title 5, United States Code, relating to civil service retirement annuities and pay on reemployment, and for other purposes."

An employee who retires under the civil service retirement law is not barred from reemployment by the Government because of retired status and, generally, continues to receive annuity during reemployment. The employing agency, however, is required to reduce the salary

paid by an amount equal to the annuity allocable to the period(s) of reemployment. Neither the retirement law nor its legislative history gives any direction as to the disposition of the annuity equivalent withheld by the agency from the salary of a reemployed annuitant, except with regard to certain reemployed retired Members of Congress.

In the case of a retired Member of Congress, section 8344(b)(2) of title 5, United States Code, provides that if reemployment is on an intermittent basis (generally, reemployment in an appointive or elective position results in suspension of annuity payments during the reemployment period), (1) the Member's annuity payments are continued during reemployment, (2) the reemployment salary is reduced by the amounts of annuity paid during the actual period(s) of reemployment, and (3) the equivalent of the annuity payments so withheld from the Member's salary by the employing agency is deposited in the United States Treasury to the credit of the Retirement Fund. The reason for requiring agencies to deposit these withholdings in the Retirement Fund is to assure that the total cost of any salary expense for intermittently reemployed Members of Congress be charged as a payroll cost to the agency, rather than be charged in whole or in part to the Civil Service Retirement and Disability Fund (H.R. Rept. No. 832, 86th Cong., 1st Sess. 3 (1959)). This is the only type of case in which the equivalent of annuity payments withheld from reemployment salary is deposited in the retirement fund. In all other cases where such withholdings are made, employing agencies retain the salary savings in their appropriations, with the result that the total salary cost for reemployed retired employees (unlike such cost for reemployed Members of Congress) is not being charged as a payroll expense to agencies.

Section 1 of H.R. 3650 would, among other things, amend 5 U.S.C. 8344(a) to require that the amounts so deducted by the agencies be deposited in the Treasury of the United States to the credit of the civil service retirement and disability fund.

The Commission agrees that agencies should bear the full payroll costs of the salaries of reemployed annuitants. However, we recommend that the salary withholdings be deposited to the General Fund of the Treasury.

Additionally, section 1 of the bill would further amend 5 U.S.C. 8344 to make a number of technical perfecting and clarifying amendments relating to the treatment of pay and annuity for a reemployed annuitant. Section 2 of the bill would amend 5 U.S.C. 8332 to allow credit for post-1956 military service in the computation of civil service retirement annuity for certain individuals who, before becoming eligible for military retired pay, leave active military service to accept a Federal civil service appointment by the President which requires Senate confirmation. The Commission has no objection to these amendments.

In summary, the Commission supports enactment of H.R. 3650, modified as indicated above.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 23, 1975.

HON. DAVID N. HENDERSON,
*Chairman, Committee on Post Office and Civil Service, House of
Representatives, Cannon House Office Building, Washington,
D.C.*

DEAR MR. CHAIRMAN: This is in reply to the committee's request for the views of this Office on H.R. 3650, "To clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes."

The purpose of the bill is to require that amounts withheld from the salaries of reemployed annuitants be deposited to the credit of the civil service retirement fund. In its report the Civil Service Commission states its reasons for recommending enactment of the bill and recommends that the amounts withheld be deposited to the General Fund of the Treasury rather than to the credit of the Retirement Fund.

We concur in the views expressed by the Civil Service Commission and, accordingly, recommend enactment of H.R. 3650 provided it is amended as indicated above.

Sincerely,

JAMES M. FREY,
Assistant Director for Legislative Reference.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., April 24, 1975.

B-130150.

HON. DAVID N. HENDERSON,
*Chairman, Committee on Post Office and Civil Service, House of
Representatives.*

DEAR MR. CHAIRMAN: In your letter of March 3, 1975, you requested our report on H.R. 3650, 94th Congress, a bill to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.

The bill would make one major substantive amendment: it would require reimbursement of the civil service retirement and disability fund in an amount equal to the annuity payments made to reemployed annuitants and withheld from the pay due them in the positions in which reemployed. In addition the bill would make certain clarifying amendments and minor revisions to 5 U.S.C. 8344 concerning the annuities and compensation of reemployed annuitants.

Section 1 of the bill would amend 5 U.S.C. 8344(a) to provide that an amount equal to the annuity allocable to the period of actual employment which under current law must be deducted from the annuitant's pay in a position in which he is reemployed shall be deposited in the Treasury of the United States to the credit of the Retirement Fund under such procedure as the Comptroller General of the United States shall prescribe. At present agencies are permitted to retain the savings realized from the deduction requirement, thus, in effect, permitting the retirement fund to subsidize agency operations. We support

this provision of H.R. 3650, since it would require the agencies to pay the full cost of employees' services; would result in agency budgets that reflect the true costs of operation, and it would make the retirement fund whole.

H.R. 3650 provides that the annuity of a reemployed annuitant who served on a part-time basis for periods equivalent to at least 1 year of full-time service be increased on termination of employment by an amount based on the period of employment and the basic pay, before deduction, averaged during that employment. Under current law, an annuitant must be reemployed on a full-time basis for at least 1 year to qualify for a supplemental annuity. Whether equivalent part-time service should also qualify for an increased annuity is a matter on which we have no specific comments.

H.R. 3650 provides that if an annuitant whose annuity is based on an involuntary separation becomes reemployed, the annuity terminates upon reemployment. According to the Civil Service Commission, this practice is already in effect by administrative regulation, and existing legislation does not give specific guidance on the matter. The effect of this treatment of involuntarily-retired annuitants upon reemployment is that they are able to have their annuities redetermined when the reemployment ends thereby being able to take advantage of any increases in their pay average, benefit liberalizations, etc., occurring since their previous retirement. This practice appears equitable in view of the fact that the annuitants were initially retired involuntarily and presumably would otherwise have remained employed.

H.R. 3650 provides that if an annuitant is appointed by the President to a position subject to the reemployment provisions, payment of his annuity terminates on reemployment. The effect of this change would be to grant Presidential appointees the advantage of having their annuities recalculated at the end of the reemployment period. This is a matter on which we have no comments.

H.R. 3650 would delete the current provision that the reemployment rules do not apply to a retired Member of Congress if he is appointed to a position that does not require confirmation by the Senate. Under current law, the annuity of a retired Member of Congress who subsequently serves in an appointive or elective position is discontinued during the employment period and resumed in the same amount at termination. The Member may elect to have his annuity recomputed as if the additional service had been performed before his retirement. These provisions do not apply, however, to a Member who is appointed by the President to a position not requiring Senate confirmation. H.R. 3650 would apply the same reemployment provisions to all retired Members of Congress regardless of whether appointment required Senate confirmation. This is a matter on which we have no comments.

H.R. 3650 would provide that creditable service used in calculating the civil service annuity payable to a retiree at age 62 shall include military service performed by an individual who, for purposes of accepting an appointment by the President to a position requiring Senate confirmation, obtained a discharge or separation prior to becoming entitled to military retired pay. In general, periods of military service are considered as creditable service in determining civil service retirement annuities. Current law provides, however, that the annuity must be recalculated when the annuitant becomes age 62 to exclude such service if he is entitled to old age or survivors insurance benefits (So-

cial Security). The change proposed by H.R. 3650 appears to be intended to provide an inducement for military personnel to forego military retirement benefits to accept a Presidential appointment to a position covered by civil service retirement. The Civil Service Commission has been able to identify only two individuals who would be currently affected by this change—former astronauts Andrews and Collins.

We understand that the primary intent of the subject bill is to correct an anomalous situation which, due to an omission in the retirement law, permits agencies to retain the difference between a reemployed annuitant's salary and annuity. Although we believe that the correction of this anomaly is advisable for the previously stated reasons and it may also encourage agencies to reemploy annuitants only where they are essential to carrying out the agency's mission, we believe that this anomaly represents only one employment problem growing out of a more serious problem which we think merits Congressional action. This is the question of the rehiring of retired annuitants for longer than is necessary to satisfy an emergency situation which a particular agency may face. We have come to the conclusion that this practice constitutes a circumvention of the legal intent of Congress in establishing the freeze on the salaries of high-level officials in the Government. This situation arose out of the spiraling high rate of inflation coupled with the automatic cost-of-living increases for annuitants and the freeze on salaries. For the reasons stated, we believe that legislation which would correct this problem deserves the consideration of the Congress.

Enclosed for your consideration is a proposed amendment to 5 U.S.C. 3323 (b) which we believe should be considered by the committee.

Sincerely yours,

LEWIS B. STAATS,
Comptroller General of the United States.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, D.C., April 29, 1975.

HON. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of April 3, 1975 requesting comments from the Committee on House Administration on H.R. 3650.

Attached is a Ramseyer draft of a portion of subparagraph (4) on Page 2, lines 8 through 23, reflecting some additional suggested language that would be applicable to the Congress.

In addition it may be appropriate to include within the accompanying report on this bill that the procedures prescribed by the Committee on House Administration may well include, but not limited to, payments from the contingent fund to cover "amounts so deducted" to be deposited in the Treasury of the United States to the credit of the fund.

With kind regards, I am
Very sincerely yours,

WAYNE L. HAYS,
Chairman.

[Attachment retained in committee files.]

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
May 9, 1975.

MEMORANDUM

Subject: Report on H.R. 3650.
From: W. Pat Jennings, Clerk,
U.S. House of Representatives.
To: Hon. David N. Henderson, Chairman,
Committee on Post Office and Civil Service,
U.S. House of Representatives.

H.R. 3650 amends section 8344 of title 5, United States Code, which governs payments to reemployed annuitants. My report outlines two important ramifications pertaining to annuitants reemployed in the U.S. House of Representatives.

The first major change requires an agency which reemploys an annuitant to reimburse the Civil Service Retirement Fund an amount equal to the annuity received by the reemployed annuitant. Therefore, it would become necessary to reimburse the Retirement Fund from appropriated funds of the House for the amount of the annuity paid to reemployed annuitants. As an example, rather than reemploying an annuitant who has a \$5,000 annual annuity at a rate of \$15,000 per annum and paying him only \$10,000 from House appropriated funds, this legislation would require the House to reimburse the Retirement Fund in the amount of \$5,000, representing the amount of the annuity.

The following schedule illustrates the recent growth in the number of reemployed annuitants on the House of Representatives' payrolls and the respective dollar amount of their annuity:

	Reemployed annuitant:	Monthly annuity	Annual annuity
June 30, 1972.....	54	\$42, 580	\$510, 960
June 30, 1973.....	71	61, 969	743, 628
June 30, 1974.....	113	117, 950	1, 415, 500

As of January 31, 1975, the number of reemployed annuitants on the House payrolls was 136 persons receiving total annuity payments of \$167,269 per month or \$20,007,228 annually.

H.R. 3650 also changes existing procedures allowing reemployed annuitants to earn supplemental annuity benefits. A supplemental annuity is in addition to the regular annuity, received upon separation, if the employee has at least one year of continuous service as a reemployed annuitant. Under existing interpretation of the law, only those individuals who retired voluntarily were eligible for supplemental annuities. H.R. 3650 extends this privilege to an annuitant who *retires* involuntarily. If passed, this may encourage involuntary retirees to try for reemployment to establish entitlement to the supplemental annuity.

Inasmuch as it affords involuntary retirees the privileges of voluntary retirees, this bill is a relaxation of age and service requirements for retirement for Congressional employees.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

TITLE 5, UNITED STATES CODE

* * * * *

Chapter 83—RETIREMENT

* * * * *

Subchapter III—CIVIL SERVICE RETIREMENT

§ 8339. Computation of annuity

(a) * * *

(f) The annuity computed under subsections (a)–(e) of this section may not exceed 80 percent of—

- (1) the average pay of the employee; or
- (2) the greatest of—
 - (A) the final basic pay of the Member;
 - (B) the average pay of the Member; or
 - (C) the final basic pay of the appointive position of a former Member who elects to have his annuity computed or recomputed under section 8344**[b]**(d) (1) of this title.

§ 8344. Annuities and pay on reemployment

(a) If an annuitant receiving annuity from the Fund, except—

- (1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;
- (2) an annuitant whose annuity **[is]**, based on an involuntary separation **[from the service other than an automatic separation; or]** (*other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency*), is terminated under subsection (b) of this section;

[(3) a Member receiving annuity from the Fund; becomes employed after September 30, 1956, or on July 31, 1956, was serving, in an appointive or elective position, his service on and after the date he was or is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. If the annuitant serves on a full-time basis, except as President, for at least 1 year in employment not excluding him from coverage under section 8331(1) (i) or (ii) of this title—

[(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employ-

ment and the basic pay, before deduction, averaged during that employment; and

[(B) his lump-sum credit may not be reduced by annuity paid during that employment.

[If the described employment of the annuitant continues for at least 5 years, he may elect, instead of the benefits provided by this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. Notwithstanding the restrictions contained in section 115 of the Social Security Amendments of 1954 (68 Stat. 1087), a similar right to redetermination after deposit is applicable to an annuitant—

[(i) whose annuity is based on an involuntary separation from the service; and

[(ii) who is separated after July 11, 1960, following such a period of employment on a full-time basis that began before October, 1956.

[If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k) (2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the annuitant dies while still reemployed and the described reemployment had continued for at least 5 years, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.]

(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

(4) a Member receiving annuity from the Fund; becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not excluding him from coverage under section 8331 (1) (i) or (ii) of this title—

(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.

(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

[(b)](d) If a Member receiving annuity from the Fund becomes employed in an appointive or elective position, annuity payments are discontinued during the employment and resumed in the same amount on termination of the employment, except that—

(1) the retired Member or Member separated with title to immediate or deferred annuity, who serves at any time after separation as a Member in an appointive position in which he is subject to this subchapter, is entitled, if he so elects, to have his Member annuity computed or recomputed as if the service had been performed before his separation as a Member and the annuity as so computed or recomputed is effective—

(A) the day Member annuity commences; or

(B) the day after the date of separation from the appointive position; whichever is later;

(2) if the retired Member becomes employed after December 31, 1958, in an appointive position on an intermittent-service basis—

(A) his annuity continues during the employment and is not increased as a result of service performed during that employment;

(B) retirement deductions may not be withheld from his pay;

(C) an amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title; and

(D) the amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund:

(3) if the retired Member becomes employed after December 31, 1958, in an appointive position without pay on a full-time or substantially full-time basis, his annuity continues during the employment and is not increased as a result of service performed during the employment; and

(4) if the retired Member takes office as Member and gives notice as provided by section 8331(2) of this title, his service as Member during that period shall be credited in determining his right to and the amount of later annuity.

【This subsection does not apply to a Member appointed by the President to a position not requiring confirmation by the Senate.】

【(c)】 (e) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

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Union Calendar No. 173

94TH CONGRESS
1ST SESSION

H. R. 3650

[Report No. 94-336]

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1975

Mr. HENDERSON introduced the following bill; which was referred to the Committee on Post Office and Civil Service

JULY 9, 1975

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 *That (a) section 8344(a) of title 5, United States Code, is*
4 *amended to read as follows:*

5 *“(a) If an annuitant receiving annuity from the Fund,*
6 *except—*

7 *“(1) a disability annuitant whose annuity is termi-*
8 *nated because of his recovery or restoration of earning*
9 *capacity;*

10 *“(2) an annuitant whose annuity, based on an in-*

1 voluntary separation (other than an automatic separation
2 or an involuntary separation for cause on charges of mis-
3 conduct or delinquency), is terminated under subsection
4 ~~(b)~~ of this section;

5 ~~“(3) an annuitant whose annuity is terminated~~
6 ~~under subsection (c) of this section; or~~

7 ~~“(4) a Member receiving annuity from the Fund;~~
8 ~~becomes employed in an appointive or elective position, his~~
9 ~~service on and after the date he is so employed is covered by~~
10 ~~this subchapter. Deductions for the Fund may not be with-~~
11 ~~held from his pay. An amount equal to the annuity allocable~~
12 ~~to the period of actual employment shall be deducted from his~~
13 ~~pay, except for lump-sum leave payment purposes under sec-~~
14 ~~tion 5551 of this title. The amounts so deducted shall be~~
15 ~~deposited in the Treasury of the United States to the credit of~~
16 ~~the Fund under such procedures as the Comptroller General~~
17 ~~of the United States shall prescribe. If the annuitant serves on~~
18 ~~a full-time basis, except as President, for at least 1 year, or on~~
19 ~~a part-time basis for periods equivalent to at least 1 year of~~
20 ~~full-time service, in employment not excluding him from cov-~~
21 ~~erage under section 8331(1) (i) or (ii) of this title—~~

22 ~~“(A) his annuity on termination of employment is~~
23 ~~increased by an annuity computed under section 8339~~
24 ~~(a), (b), (d), (e), (h), and (i) of this title as may~~
25 ~~apply based on the period of employment and the basic~~

1 pay, before deduction, averaged during that employ-
2 ment; and

3 ~~“(B) his lump-sum credit may not be reduced by~~
4 ~~annuity paid during that employment.~~

5 If the annuitant is receiving a reduced annuity as provided
6 in section 8339(j) or section 8339(k) (2) of this title, the
7 increase in annuity payable under subparagraph (A) of this
8 subsection is reduced by 10 percent and the survivor annuity
9 payable under section 8341(b) of this title is increased by
10 55 percent of the increase in annuity payable under such sub-
11 paragraph (A); unless, at the time of claiming the increase
12 payable under such subparagraph (A), the annuitant noti-
13 fies the Commission in writing that he does not desire the
14 survivor annuity to be increased. If the annuitant dies while
15 still reemployed, the survivor annuity payable is increased as
16 though the reemployment had otherwise terminated. If the
17 described employment of the annuitant continues for at least
18 5 years, or the equivalent of 5 years in the case of part-time
19 employment, he may elect, instead of the benefit provided
20 by subparagraph (A) of this subsection, to deposit in the
21 Fund an amount computed under section 8334(c) of this
22 title covering that employment and have his rights redeter-
23 mined under this subchapter. If the annuitant dies while still
24 reemployed and the described employment had continued for
25 at least 5 years, or the equivalent of 5 years in the case of

1 part-time employment, the person entitled to survivor an-
2 nuity under section 8341(b) of this title may elect to de-
3 posit in the Fund and have his rights redetermined under
4 this subchapter.”.

5 ~~(b)~~ Section 8344 of title 5, United States Code, is
6 amended—

7 ~~(1)~~ by redesignating subsections ~~(b)~~ and ~~(c)~~
8 thereof as subsections ~~(d)~~ and ~~(e)~~, respectively; and

9 ~~(2)~~ by inserting immediately after subsection ~~(a)~~
10 thereof the following new subsections:

11 “~~(b)~~ If an annuitant whose annuity is based on an
12 involuntary separation (other than an automatic separation
13 or an involuntary separation for cause or charges of miscon-
14 duct or delinquency) is reemployed in a position in which
15 he is subject to this subchapter, payment of the annuity ter-
16 minates on reemployment.

17 “~~(c)~~ If an annuitant is appointed by the President to a
18 position in which he is subject to this subchapter, payment
19 of the annuity terminates on reemployment.”.

20 ~~(e)~~ Section 8344(d) of title 5, United States Code,
21 as redesignated by this Act, is amended by striking out the
22 last sentence.

23 ~~(d)~~ Section 8339(f)(2)(C) of title 5, United States
24 Code, is amended by striking out “8344(b)(1)” and insert-
25 ing in lieu thereof “8344(d)(1)”.

1 ~~SEC. 2.~~ Section 8332(j) of title 5, United States Code,
2 is amended—

3 ~~(1)~~ by striking out in the first sentence “, except”
4 and inserting in lieu thereof “(except”; and

5 ~~(2)~~ by inserting in the first sentence, immediately
6 after “civilian position,” the following: “or military
7 service performed by an individual who, for purposes of
8 accepting an appointment by the President to a position
9 requiring Senate confirmation, obtained a discharge or
10 separation prior to becoming entitled to retired pay on
11 account of such military service)”.
12

13 ~~SEC. 3. (a)~~ Except as provided under subsection ~~(b)~~
14 of this section, the amendments made by this Act shall be-
15 come effective on the date of enactment of this Act and shall
16 apply to annuitants serving in appointive or elective positions
17 on and after the date of enactment of this Act.

18 ~~(b)~~ The amendment made by subsection ~~(c)~~ of the first
19 section of this Act shall become effective on the date of enact-
20 ment of this Act but shall not apply to any annuitant reem-
21 ployed prior to the date of enactment of this Act.

22 That (a) section 8344(a) of title 5, United States Code, is
23 amended to read as follows:

24 “(a) If an annuitant receiving annuity from the Fund,
 except—

1 “(1) a disability annuitant whose annuity is termi-
2 nated because of his recovery or restoration of earning
3 capacity;

4 “(2) an annuitant whose annuity, based on an in-
5 voluntary separation (other than an automatic separa-
6 tion or an involuntary separation for cause on charges of
7 misconduct or delinquency), is terminated under sub-
8 section (b) of this section;

9 “(3) an annuitant whose annuity is terminated
10 under subsection (c) of this section; or

11 “(4) a Member receiving annuity from the Fund;
12 becomes employed in an appointive or elective position,
13 his service on and after the date he is so employed is cov-
14 ered by this subchapter. Deductions for the Fund may not
15 be withheld from his pay. An amount equal to the annuity
16 allocable to the period of actual employment shall be de-
17 ducted from his pay, except for lump-sum leave payment
18 purposes under section 5551 of this title. The amounts so
19 deducted shall be deposited in the Treasury of the United
20 States to the credit of the Fund. If the annuitant serves on
21 a full-time basis, except as President, for at least 1 year, or
22 on a part-time basis for periods equivalent to at least 1 year
23 of full-time service, in employment not excluding him from
24 coverage under section 8331 (1) (i) or (ii) of this title—

25 “(A) his annuity on termination of employment is

1 increased by an annuity computed under section 8339
2 (a), (b), (d), (e), (h), and (i) of this title as may
3 apply based on the period of employment and the basic
4 pay, before deduction, averaged during that employ-
5 ment; and

6 “(B) his lump-sum credit may not be reduced by
7 annuity paid during that employment.

8 If the annuitant is receiving a reduced annuity as provided
9 in section 8339(j) or section 8339(k)(2) of this title, the
10 increase in annuity payable under subparagraph (A) of this
11 subsection is reduced by 10 percent and the survivor annuity
12 payable under section 8341(b) of this title is increased by
13 55 percent of the increase in annuity payable under such sub-
14 paragraph (A); unless, at the time of claiming the increase
15 payable under such subparagraph (A), the annuitant noti-
16 fies the Commission in writing that he does not desire the
17 survivor annuity to be increased. If the annuitant dies while
18 still reemployed, the survivor annuity payable is increased as
19 though the reemployment had otherwise terminated. If the
20 described employment of the annuitant continues for at least
21 5 years, or the equivalent of 5 years in the case of part-time
22 employment, he may elect, instead of the benefit provided
23 by subparagraph (A) of this subsection, to deposit in the
24 Fund an amount computed under section 8334(c) of this
25 title covering that employment and have his rights redeter-

1 *mined under this subchapter. If the annuitant dies while still*
2 *reemployed and the described employment had continued for*
3 *at least 5 years, or the equivalent of 5 years in the case of*
4 *part-time employment, the person entitled to survivor an-*
5 *nuity under section 8341(b) of this title may elect to de-*
6 *posit in the Fund and have his rights redetermined under*
7 *this subchapter.”.*

8 (b) Section 8344 of title 5, United States Code, is
9 amended—

10 (1) by redesignating subsections (b) and (c)
11 thereof as subsections (d) and (e), respectively; and

12 (2) by inserting immediately after subsection (a)
13 thereof the following new subsections:

14 “(b) If an annuitant, other than a Member receiving an
15 annuity from the Fund, whose annuity is based on an in-
16 voluntary separation (other than an automatic separation
17 or an involuntary separation for cause or charges on miscon-
18 duct or delinquency) is reemployed in a position in which
19 he is subject to this subchapter, payment of the annuity ter-
20 minates on reemployment.

21 “(c) If an annuitant, other than a Member receiving
22 an annuity from the Fund, is appointed by the President to
23 a position in which he is subject to this subchapter, payment
24 of the annuity terminates on reemployment.”.

25 (c) Section 8344(d) of title 5, United States Code,

1 *as redesignated by this Act, is amended by striking out the*
2 *last sentence.*

3 *(d) Section 8339(f)(2)(C) of title 5, United States*
4 *Code, is amended by striking out "8344(b)(1)" and insert-*
5 *ing in lieu thereof "8344(d)(1)".*

6 *SEC. 2. (a) Except as provided under subsection (b)*
7 *of this section, the amendments made by this Act shall be-*
8 *come effective on the date of the enactment of this Act and shall*
9 *apply to annuitants serving in appointive or elective positions*
10 *on and after the date of the enactment of this Act.*

11 *(b) The amendment made by subsection (c) of the first*
12 *section of this Act shall become effective on the date of the*
13 *enactment of this Act but shall not apply to any annuitant*
14 *reemployed before the date of the enactment of this Act.*

Union Calendar No. 173

94TH CONGRESS
1ST Session

H. R. 3650

[Report No. 94-336]

A BILL

To clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.

By Mr. HENDERSON

FEBRUARY 25, 1975

Referred to the Committee on Post Office and Civil Service

JULY 9, 1975

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed